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From-HUNTON & WILLIAMS

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,007	06/06/2002	Richard William Falla Le Page	31855.0010	6732

21967 7590 06/24/2003

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EXAMINER

DEVI, SARVAMANGALA J N

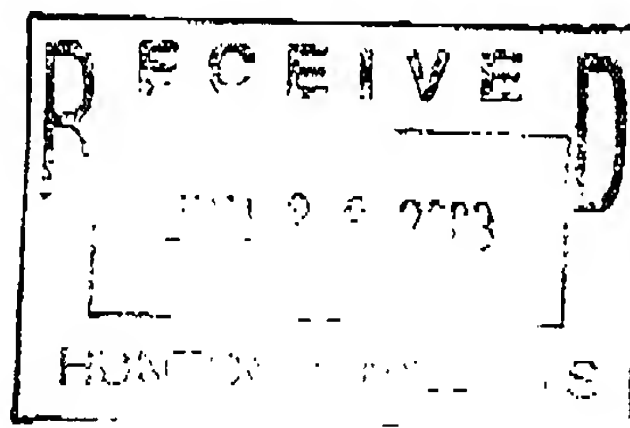
ART UNIT

PAPER NUMBER

1645

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



DOCKETED	6-30-03
ACTION CODE	Election/Restriction
EXPIRATION DATE	6-24-03
DUE DATE	7-24-03
DEADLINE	12-24-03
ATTORNEYS	
INITIALS	HH

PTO-90C (Rev. 07-01)

Office Action SummaryApplication No.
10/091,007

Applicant(s)

William et al.

Examiner

S. Devi, Ph.D.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for ReplyA SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE one MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Jun 6, 2002.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-24 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-882) 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-848) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Restriction

- 1) Claims 1-24 are under prosecution.
- 2) **Please Note** In an effort to enhance communication with our customers and reduce processing time, Group 1640 is running a Fax Response Pilot for Written Restriction Requirements. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. We encourage your participation in this Pilot program. If you have any questions or suggestions please contact Paula Hutzell, Ph.D., Supervisory Patent Examiner at Paula.Hutzell@uspto.gov or 703-308-4310. Thank you in advance for allowing us to enhance our customer service. Please limit the use of this dedicated Fax number to responses to Written Restrictions.
- 3) Restriction to one of the following inventions is required under 35 U.S.C. 121:
 1. Claims 1- 3, 11-13 and 22, drawn to a Group B *Streptococcal* protein or polypeptide shown in Figure 1, or fragments or derivatives thereof, classified in class 530, subclass 350
 2. Claims 4-6, 8, 14-16 and 23, drawn to a DNA sequence set out in Figure 1 and a vector comprising the same, classified in class 536, subclass 23.7.
 3. Claims 9 and 21, drawn to an antibody capable of binding to a protein or polypeptide as defined in Figure 1, classified in class 530, subclass 387.9.
 4. Claim 7, drawn to a method of use of a vector comprising a DNA sequence set out in Figure 1, classified in class 435, subclass 320.1
 5. Claim 9, drawn to a process of producing a Group B *Streptococcal* protein or polypeptide shown in Figure 1 by expression in a host cell, classified in class 435, subclass 71.1
 6. Claim 17, drawn to a method of using a composition comprising DNA sequence set out in Figure 1, classified in class 424, subclass 234.1
 7. Claim 18, drawn to a method of detecting Group B streptococcus using an antibody capable of binding to a protein or polypeptide as defined in Figure 1, classified in class 435, subclass 7.1
 8. Claim 19, drawn to a method of detecting Group B streptococcus using a

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protein or polypeptide as defined in Figure 1, classified in class 435, subclass 7.34

9 Claim 20, drawn to a method of detecting Group B streptococcus using a a DNA sequence as defined in Figure 1, classified in class 435, subclass 6

10. Claim 24, drawn to a method of inactivating a protein or polypeptide shown in Figure 1, classified in class 530, subclass 427

4) Inventions 1-10 are patentably distinct from one another. Inventions 1-3 are drawn to distinct products which differ from one another structurally, biologically and/or immunogenically. The various claimed sequences or products require separate structural searches that are non-coextensive. Inventions 4-10 are drawn to distinct methods which differ from one another in method steps, parameters, reagents or products used, and the ultimate goals accomplished. The product of invention 1 is not required to practice the methods of inventions 4, 6, 7 and 9. Similarly, the product of invention 2 is not required to practice the methods of inventions of 7, 8 and 10. The product of invention III is not required to practice the methods of 4-6 and 8-10.

5) After electing one of the above-identified inventions, Applicants should further elect one of the recited protein or DNA sequences, or one of the antibodies specific to one of the recited protein sequences for examination

6) Inventions 1, 2 and 3 respectively, and inventions 8 and 9, inventions 4-6 and 9, invention 7, are related as product and process of using the product. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process of using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. 806.05(h)). In the instant case, the protein or polypeptide of invention 1 can be used in a materially different process, for example, as a product in the manufacture of a conjugate antigen by conjugating to a polysaccharide. The vector of invention 2 could be used in a materially different process, for example, as a coating antigen reagent in an *in vitro* ELISA. The nucleic acid of invention 2 can be used in a materially different process, for example, in the manufacture of a probe reagent for use in a diagnostic kit. The antibody of invention 3 can be used in a materially different process, for example, as an immunogen to raise anti-idotypic antibodies.

Because these inventions are distinct for the reasons given and have acquired a separate

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status in the art as shown by their different classifications/subclassifications and divergent subject matter, and since a search performed for one product would not be co-extensive to the other, restriction for examination purposes as indicated is proper.

- 7) Applicants are advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. 1.143)
- 8) Applicants are reminded that upon cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filled petition under C.F.R. 1.48(b) and by the fee required under 37 C.F.R. 1.17(h).
- 9) Any inquiry concerning this communication or earlier communications from the Examiner should be directed to S. Devi, Ph.D., whose telephone number is (703) 308-9347. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 7:15 a.m. to 4:15 p.m. except one day each bi-week which would be disclosed on the Examiner's voice mail system.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Lynette Smith, can be reached on (703) 308-3909.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196

June, 2003


S. DEVI, PH.D.
PRIMARY EXAMINER

**HUNTON &
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TO **NAME:** Examiner Devi
 FIRM: US PTO
 FAX NO.: 571 273 0547
 PHONE NO.:

PAGES (INCLUDING COVER): 6

ORIGINAL TO FOLLOW IN MAIL: ☐ Yes ☒ No

FROM **NAME:** David A Kelly
 DIRECT DIAL: 202-955-1960

MESSAGE Re: U.S. Appln. No. 10/091,007
 Inventor: Le Page et al.
 Entitled: Nucleic Acids and Proteins From Group B Streptococcus

Examiner Devi:

Pursuant to your telephone call this morning, attached is a copy of the June 24, 2003
Restriction Requirement in the above referenced application.

IF PROBLEM WITH TRANSMISSION, PLEASE CONTACT OPERATOR AT 202 • 955 • 1500 .

OPERATOR

DATE: August 23, 2004
TIME:
CLIENT/MATTER NAME: Kilburn & Strode
CLIENT/MATTER NO.: 62785.2

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